

Message Text

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C O N F I D E N T I A L BERLIN 5544

DEPARTMENT PASS TO SCA, SCA/SCS, AND EUR/CE

E.O. 11652: GDS

TAGS: CGEN, PFOR, GE

SUBJECT: NOTARIALS: LEGALITY OF ACKNOWLEDGEMENTS BY FOREIGN CONSULAR
OFFICERS ACCREDITED TO THE GDR

REF: (A) BERLIN 5382 (B) 7 FAM 821.1 AND 2

1. SINCE THE EMBASSY OPENED, SEVERAL GDR CITIZENS HAVE ASKED
US IF CONOFFS COULD ACKNOWLEDGE THEIR SIGNATURES ON DOCUMENTS,
USUALLY POWERS OF ATTORNEY CONCERNING LARGE INHERITANCES. MOST
OF THESE EAST GERMANS WISH TO AVOID THE NEED TO REGISTER THESE
INHERITANCES WITH THE GDR AUTHORITIES AND RISK COMPULSION TO
TRANSFER THE FOREIGN EXCHANGE ASSETS THEREOF TO THIS COUNTRY.
THIS WOULD BE REQUIRED IF THEY HAD THEIR SIGNATURES NOTARIZED
BY GDR NOTARIES PUBLIC WITH A SUBSEQUENT CHAIN OF AUTHENTICATION
RUNNING THROUGH THE JUSTICE MINISTRY TO THE FOREIGN MINISTRY'S
CONSULAR DEPARTMENT AND THEN TO THE EMBASSY. MANY OF THOSE VISITING U
S
ADMIT FREELY THAT AVOIDANCE OF REGISTRATION IS A VIOLATION OF GDR LAW
AND FREQUENTLY DO NOT GIVE THEIR NAMES, POSING THE QUESTIONS
ON THIS MATTER IN HYPOTHETICAL TERMS.

2. ON DEALING WITH SUCH REQUESTS, WE HAVE CONSIDERED REF (B)
WHICH GOVERNS COMPLIANCE WITH AND REFUSAL OF REQUESTS FOR NOTAR-
IAL SERVICES. WITHOUT "TREATY PROVISIONS", GDR LAW IS GOVERNING
ON WHETHER ACKNOWLEDGMENTS CAN BE PERFORMED HERE. THE HEAD
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OF THE LAWYERS' BUREAU FOR INTERNATIONAL CIVIL LAW REPRESENTA-

TION (SEE REF A) HAS TOLD EMBOFF THAT GDR LAW DOES NOT AUTHORIZE ACKNOWLEDGEMENTS WITHOUT SPECIFIC PROVISIONS IN A CONSULAR CONVENTION. (IN LIGHT OF THIS ENTITY'S OBVIOUSLY PRIVILEGED RELATIONSHIP WITH GDR AUTHORITIES AS WELL AS THE CURRENT CONSULAR NEGOTIATIONS, WE CONSIDER HIS STATEMENT AUTHORITY ENOUGH ON WHAT GDR LAW PERMITS WITHOUT FORMALLY ADDRESSING THE FOREIGN MINISTRY ON THAT QUESTION.)

3. SINCE THE EMGASSY OPENED, THE FOREIGN MINISTRY HAS SENT US SAMPLES OF THE SIGNATURES OF OFFICIALS WHO CAN AUTHENTICATE SIGNATURES OF GDR OFFICIALS. THEY HAVE SENT US A STEADY STREAM OF SUCH DOCUMENTS FOR OUR AUTHENTICATION. CLEARLY, THEY HAVE NO OBJECTION TO OUR PERFORMING AUTHENTICATIONS.

4. ACCORDINGLY, WE HAVE BEEN REFERRING INQUIRIERS TO GDR NOTARIES AND RECOMMENDING AUTHENTICATION PROCEDURES INSTEAD OF ACKNOWLEDGEMENTS. (WE HAVE ALSO DONE THIS IN SOME INSTANCES TO ANSWER WRITTEN INQUIRIES FROM US ATTORNEYS.) ALTHOUGH THESE CASES DO NOT REPRESENT REFUSALS IN THE SENSE WHICH THE REGULATIONS APPEARS TO MEAN (AN ALTERNATE PROCEDURE IS ALWAYS SUGGESTED), WE WISH THE DEPARTMENT TO BE AWARE OF THIS SITUATION SO THAT IT CAN RESPOND TO ANY INQUIRIES IT MAY RECEIVE IN THIS REGARD.GROVE

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